

REMARKS

The Examiner's time to discuss the instant case by telephone is very much appreciated. Reconsideration and withdrawal of the Examiner's rejections under 35 USC § 112 is requested in view of the foregoing amendments and the following remarks.

The Examiner has rejected claims 1-7 under 35 USC 102(e) as being anticipated by Clarke et al., US 6,303,565. The Examiner has further rejected claims 1, 5, and 6 under 35 USC § 102 (b) as being anticipated by Goldberg et al., US 4,526,781. The Examiner has further rejected claims 1 - 7 and 16 - 21 under 35 USC 103 (a) as being unpatentable over Clarke et al.

In response, applicants have cancelled claims 1-7 and 16-21. Claim 8 has been amended according to the Examiner's kind suggestion and new claims 22 - 29 have been added.

Clarke et al. relates to a method for stabilizing fabric softening compositions wherein the composition comprises a specific amount of a cationic fabric softening agent and a perfume and a specific emulsified silicone. Clarke et al. does not disclose the composition as claimed in new claim 22 since it recites a specific quaternary methyl ammonium compound in the concentration range of about 0.1 to 5% by wt. Clarke et al. teaches that the fabric softening agent is present in his inventive composition in the total amount of 8 to 50% by wt. (See col. 5, lines 33-34). Clarke et al. does not disclose or suggest the specific acid or fatty acid ester or substituted vegetable oil compound as claimed in claim 22.

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Goldberg et al. relates to hair care compositions containing a relatively small amount of hydrogenated tallow betaine. Goldberg specifically discloses in Example 8 a blend of di-cetyl di-methyl ammonium chloride at 1.75% and hydrogenated tallow betaine at 0.0003%. There is no disclosure or suggestion in Example 8 that a surfactant can be added in a concentration range of 0.5 to 10% by wt. In fact, Goldberg teaches away from adding a high level of surfactant to Example 8 in disclosing other compositions that include the inventive hydrogenated tallow betaine for different applications, e.g., a shampoo is described in Example 1 that contains 15% of an anionic surfactant but does not contain di-cetyl di-methyl ammonium chloride since its use would not be indicated in the shampoo of Goldberg. Applicants respectfully submit that claim 22 distinguishes over Goldberg et al., because in addition to the C₇ or greater monohydric alcohol and the di or tri-alkyl quaternary methyl ammonium compound, a surfactant is required in the concentration range of 0.5 to 10% by wt.

Support for claim 22 and claim 26 can be found in the instant specification on page 7, line 16 to page 8, line 30. Applicants respectfully submit that no new matter has been added by these amendments.

Allowable Subject Matter

Applicants note that claim 8 would be allowable if rewritten or amended to overcome the rejection under 35 USC § 112 and claims 9 - 15 would be allowable if rewritten to overcome the rejection under 35 USC § 112 and to include all of the limitations of the base claim and any intervening claims. Claim 8 has been amended according to the Examiner's kind suggestion. Claims 9 - 15 depend on amended claim 8.

CONCLUSION

In light of the above amendments and remarks, applicants submit that all claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

If a telephone interview would facilitate prosecution of the application, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,



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